

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

APRIL MITCHELL )  
 )  
v. )  
 )  
STADIUM INN HOTEL )

3 08 0613

No. \_\_\_\_\_  
(No. 3:08-MC-0087)  
Judge Echols

MEMORANDUM AND ORDER

The plaintiff, proceeding *pro se*, is a homeless person in Nashville, Tennessee. She brings this action against Stadium Inn Hotel.

The plaintiff has filed an application to proceed *in forma pauperis*. As it appears that the plaintiff is homeless and cannot pay the three hundred fifty dollar (\$350.00) civil filing fee in this matter, the Clerk is directed to file this action *in forma pauperis*. 28 U.S.C. § 1915(a)(1). However, process shall NOT issue.

*Pro se* complaints are to be construed liberally by the court. See *Boag v. McDougall*, 454 U.S. 364, 365 (1982). However, under 28 U.S.C. § 1915(e)(2), the Court is required to dismiss a complaint brought by a plaintiff proceeding *in forma pauperis* "at any time the court determines" that the complaint is frivolous, malicious, or fails to state a claim on which relief may be granted. 28 U.S.C. §§ 1915(e)(2)(B)(i) and (B)(ii). A complaint is frivolous and warrants dismissal when the claim "lacks an arguable basis in law or fact." See *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A complaint lacks an arguable basis in law or

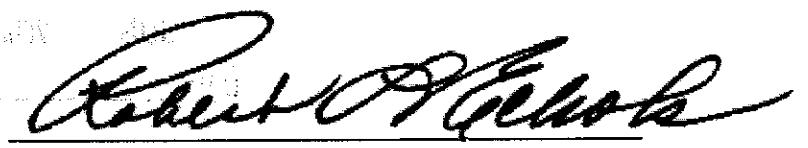
fact if it contains factual allegations that are fantastic or delusional, or if it is based on legal theories that are indisputably meritless. *Id.* at 327-28; *Brown v. Bargery*, 207 F.3d 863, 866 (6<sup>th</sup> Cir. 2000).

The Court has made an effort to read and understand the statement of the plaintiff's claim. Plaintiff seems to be blaming Stadium Inn Hotel for her being homeless because she has been harassed. She does not state by whom she has been harassed or how such harassment led to her being homeless. Plaintiff's statements are conclusory and provide no facts supporting any viable claim. She states "the entire City of Nashville [should be immediately arrested] for refusal to stop harassing[.] Refusal to stop harassing[.] Restitution back to Stadium Inn Hotel." Consequently, the complaint does not lend itself to liberal construction as prescribed by *Boag v. McDougall*, nor is the Court required to conjure up unpled facts. *Wells v. Brown*, 891 F.2d 591, 594 (6<sup>th</sup> Cir. 1990) (citing *Merritt v. Faulkner*, 697 F.2d 761 (7<sup>th</sup> Cir. 1983)).

For the reasons explained above, the plaintiff's complaint lacks an arguable basis in law or fact. Accordingly, the complaint is DISMISSED as frivolous. Because an appeal from the judgment rendered herein would not be taken in good faith, the plaintiff is NOT certified to pursue an appeal from this judgment *in forma pauperis*. 28 U.S.C. § 1915(a)(3).

Entry of this Order shall constitute the judgment in this action.

It is so ORDERED.



Robert L. Echols  
United States District Judge